

**WASHINGTON STATE  
GAMBLING COMMISSION MEETING  
THURSDAY, APRIL 12, 2012  
APPROVED MINUTES**

**Chair John Ellis** called the Gambling Commission meeting to order at 1:35 p.m. at the Tumwater Comfort Inn Conference Center and introduced the members present. He mentioned that Senator Margarita Prentice had just completed her last legislative session after almost 25 years in the Senate. Fortunately, she will continue to be an ex-officio member of the Commission through the seating of the current Legislature until next January. The Commission is very pleased about that, given the tremendous contributions and institutional knowledge of the gambling industry in this state that she has provided to the Commission.

**MEMBERS PRESENT:**     **Commissioner Chair John Ellis**, Seattle  
                                 **Commissioner Vice-Chair Mike Amos**, Selah  
                                 **Commissioner Keven Rojecki**, Tacoma  
                                 **Commissioner Michael Reichert**, Maple Valley  
                                 **Commissioner Kelsey Gray**, Spokane  
                                 **Senator Margarita Prentice**, Renton  
                                 **Representative Gary Alexander**, Olympia  
                                 **Representative Timm Ormsby**, Spokane

**STAFF:**                     **Rick Day**, Director  
                                 **David Trujillo**, Deputy Director  
                                 **Mark Harris**, Assistant Director – Field Operations  
                                 **Amy Hunter**, Administrator – Communications & Legal  
                                 **Jerry Ackerman**, Senior Counsel, Attorney General's Office  
                                 **Gail Grate**, Executive Assistant

**Staff Accomplishment: Susan Arland, 15 years of Washington State Service**

**Chair Ellis and Director Day** presented Ms. Susan Arland with a certificate for 15 years of Washington State service. Director Day reported that Ms. Arland graduated from Walla Walla University with a Bachelor of Science in Business Administration. She started her employment with the state of Washington in 1994 at McNeil Island Correction Center and started with the Gambling Commission in 1995. Ms. Arland has been the agency's Rules Coordinator and Public Information Officer since 1998.

**1. Agenda Review/Director's Report**

**Director Rick Day** briefly reviewed the agenda, indicating there were no staff requested changes. He pointed out some last minute inclusions to the agenda packets, which included a news article and a revised Commission Licensing Approval List. He mentioned that Chair Ellis had received a brochure and a letter from Chairman Ron Allen regarding the statewide Tribal Community Investment Reports. Director Day said he planned to

prepare a response for Chair Ellis to Chairman Allen thanking him for sending the document. The document is available on the Washington Indian Gaming Association's website.

**Director Day** provided an update on the agency's accreditation project, which was included in the agenda packets. He noted the operation of the Gambling Commission over the years has been very progressive, and staff continue to look for ways to improve and have raised methods that measure effectiveness and certify its professionalism. The Commission approved the project as part of its strategic plan to obtain accreditation from the Washington Association of Sheriffs and Police Officers (WASPC). In this process for the application, federal forfeiture funds are authorized for accreditation purposes. If the Gambling Commission is successful in that accreditation effort, it will be the first gambling law enforcement and regulatory agency to be so accredited. It is not only relative to the accreditation side, but is one of the best ways to protect staff and defend against lawsuits used to ensure well written policies and structure have been established and that staff are well trained to support them. There are 53 other Washington State agencies that are already accredited, including 13 that hold national accreditation. Deputy Director Trujillo is responsible in his role as Deputy Director to lead that effort with our accreditation officer, Mike Fitzpatrick.

**Chair Ellis** affirmed it was an excellent process and well worth doing. **Director Day** added staff are finding it to be very detailed and is helpful in giving the agency a modern policy structure.

**Commissioner Rojecki** asked if the WASPC used national accreditation standards. He said that in the fire service they do not go through a state agency for their national accreditation, but actually go through a national accreditation. **Director Day** replied that California Law Enforcement Association (CLEA), which includes 13 agencies, is actually the national accreditation. At one time, WASPC was the accreditation manager for CLEA, but in the process, partially due to expense, they have separated. The standards are primarily the same. Staff could not see any added benefit in paying the extra dividend for the national accreditation when the WASPC accreditation seemed to match the same standards. The key issue was in meeting those standards, so it was decided that was the more practical way to proceed at this point.

**Director Day** pointed out a short report from Agents Jon Godfrey and Brian Lane regarding their attendance and observations at the World Gaming Protection Conference in Las Vegas, including some interesting discussion about the latest casino scams. Director Day reported there has been very limited federal congressional action. One relatively new piece of legislation that was introduced on February 17 was HR 4033 that would require approval by local elected officials for Class III gaming facilities. The bill would apply to any compact approved after January 1, 2011. So if the federal law was changed, the compact negotiation itself would not be the final decision. There would also have to be a local vote on that particular step. Director Day pointed out a couple news articles. One deals with the debate and testimony going on regarding the Spokane Tribe and a proposed

Airway Heights casino. The Bureau of Indian Affairs is accepting written comments and has already had a public hearing regarding that proposal in Spokane.

## **2. Legislative Update**

**Ms. Amy Hunter** explained she would mainly be covering the statewide budget bill that technically passed early yesterday morning and led to the adjournment of the legislative session. Otherwise the information in the memorandum is largely unchanged. Ms. Hunter noted that Commissioner Gray's confirmation was pulled out of Senate Rules on Saturday, but like a lot of the other confirmations, the Senate did not have time to take a vote on it. The Commissioners continue to serve even if they have not been confirmed, so there is no time requirement by which a Commissioner has to be confirmed. The overall impacts of the statewide budget, House Bill 2127, are limited for the Commission, which is good news. The Commission will be impacted in four areas: the insurance benefit premiums that employers contribute are decreasing from \$850 to \$800; the employer's contribution for the Public Employees' Retirement System is decreasing; written approval from the Director of the Department of Enterprise Services is required when an agency purchases passenger vehicles; and the Office of Financial Management (OFM) will be looking at how agencies procure interpreter services and the cost of the services. The budget also addresses the Office of Regulatory Assistance and requires that the agency work on concepts that were in HB 2172/SB 6142, which dealt with changing agency regulatory practices. Section 935 specifically states that this applies to regulatory agencies that get appropriations under the Act. As the Gambling Commission is non-appropriated, Ms. Hunter was not sure if staff would receive questions from the Office of Regulatory Assistance.

Ms. Hunter reported there were about eight bills that passed that will impact the Commission. The agency leadership team will be talking next week about implementing those bills. A couple of the bills will require rule changes, which will come before the Commission. Some will require updates to policies and procedures. Staff welcome the Commissioners' input on anything that is of interest to them. Ms. Hunter's update at the next Commission meeting will provide more details of the new laws and some of the specific things staff will be doing to implement those. She will also present a final recap of the agency legislative team's work during the 2012 session, and provide a brief update on suggested agency request legislation for the 2013 session, if any. If there are ideas for request legislation, Ms. Hunter explained she would present a more formal packet of ideas for request legislation at the July meeting, and then ask for final approval at the August meeting.

**Chair Ellis** asked if there were any questions; there were none.

**Director Day** pointed out this was also the Commission's biennial budget year. In July, the Commissioners will see any adjustments proposed by staff relative to the existing year's budget, and then an initial glance at the proposed biennium budget, and then at the August meeting the agency budget will be up for consideration and, hopefully, approval. He underscored that if any areas of the budget are of particular interest to the

Commissioners, they should let him know. Otherwise staff will just keep moving forward as will be described at that meeting.

**Senator Prentice** asked what was finally done about the staffing issue. **Director Day** affirmed that the budget process was very good – the Commission is not in it, which is very much appreciated. **Senator Prentice** said that, as he made the argument then and since it was so close to the end of session, she lost track of what really happened. **Director Day** replied one problem staff will be dealing with is the agent compensation. The Commission was not able to make any progress with that issue as far as getting an exception for the agents in the current freeze, so have shifted from that to a long-term perspective. Staff is moving forward with two planning items that will be in the maintenance budget. If the 3 percent reduction ends, agents would be moved back to their normal compensation level. If the salary increase freeze is removed, the agents would be moved to the level they should be at with increments and endorsement pay. It will not be retroactive, but the agents' salaries would come current. Staff has been tasked with forming a team to revisit the Special Agent Compensation Plan, which is 10 to 11 years old, to take a look at the present classification, and then present a proposal to leadership, which will eventually work its way to the Commission. The issue has not been ignored; it is being followed up, and part of it will be in this year's budget. Then it is highly likely it will be brought back to the Commission with any overall changes in the agent pay plan.

**3. Approval of Minutes – March 8, 2012 Commission Meeting**

**Chair Ellis** asked if there were any comments or questions about the minutes as distributed; there were none.

**Commissioner Gray** made a motion seconded by **Commissioner Rojecki** to approve the minutes from the March 8, 2012, Commission meeting as submitted. *Vote taken; the motion passed with five aye votes.*

**4. New Licenses and Class III Certifications**

**Deputy Director Dave Trujillo** reported that staff discovered an error on the New Licenses and Class III Certifications Report that was mailed to the Commissioners and included in the public agenda handout packets. The House-Banked Card Room Report as provided in the agenda packets was correct. Staff recommends approval of the new licenses and Class III certifications listed on pages 1 through 18 on the colored paper.

**Chair Ellis** noted there was also the standard three-page House-Banked Card Room Report in the agenda packet that lists all of the currently licensed or inactive card rooms, which he understood was complete and accurate. **Deputy Director Trujillo** affirmed that was correct.

**Chair Ellis** asked if there were any questions; there were none.

Commissioner Rojecki made a motion seconded by Commissioner Amos to approve all new licenses and Class III certifications listed on pages 1 through 18. Vote taken; the motion passed with five aye votes.

**5. Defaults:**

**a) Christopher M. Hammond, Card Room Employee, Revocation**

**Ms. Hunter** reported one change since the memorandum was drafted is that Christopher Hammond is no longer working for Crazy Moose in Pasco. Mr. Hammond has outstanding warrants because he failed to appear for scheduled court dates. He also owes almost \$5,000 in court ordered fines and fees, of which over \$1,000 has been sent to collections. Deputy Director Trujillo issued charges to Mr. Hammond by certified mail and regular mail. The certified mail was signed, so staff knows that he definitely received the charges. The charges notified Mr. Hammond that if he did not respond, a default order revoking his license would be requested. He did not respond, so he has waived his right to a hearing. Staff recommends the Commission revoke Christopher Hammond's license.

**Chair Ellis** asked if Christopher M. Hammond was present or anyone representing him in this matter; no one stepped forward.

Commissioner Rojecki made a motion seconded by Commissioner Amos that the Commission revoke Christopher M. Hammond's license to conduct gambling activities as presented. Vote taken; the motion passed with five aye votes.

**b) Vicki M. Satiacum, Charitable/Nonprofit Gambling Manager, Revocation**

**Ms. Hunter** reported that Vicki Satiacum has a license as a nonprofit gambling manager. While working for AmVets in Tacoma, Ms. Satiacum took approximately \$14,000 from gambling deposits and kept payments that customers had made on NSF checks. Ms. Satiacum admitted to doing this and AmVets terminated her. Ms. Satiacum did repay about \$10,000. The Director issued administrative charges to her by regular mail and certified mail. The certified mail was not claimed; however, the regular mail was not returned, so staff presumes that Ms. Satiacum received the charges. She did not respond to the charges, so she has waived her right to a hearing. Staff recommends the Commission revoke Vicki Satiacum's license.

**Chair Ellis** asked if Vicki M. Satiacum was present or anyone representing her; no one stepped forward.

Commissioner Amos made a motion seconded by Commissioner Rojecki that the Commission revoke Vicki Satiacum's license to conduct gambling activities as presented. Vote taken; the motion passed with five aye votes.

## **RULES UP FOR DISCUSSION AND POSSIBLE FILING**

**6. Petition From the Public: ShuffleMaster, Inc. - Allowing carryover pots for house-banked card games**

**Amendatory Section: WAC 230-15-410 - Owners, prize fund custodians, and card room employees participating in player-supported jackpots**

**Assistant Director Mark Harris** explained that a carryover pot is an optional pot that accumulates as the dealer and participating players contribute to the pot. The winner of the pot would not necessarily be determined on one game, as there is a minimum qualifying hand, and it could be carried over for no more than ten games. Participants must include at least one player and the dealer competing for the highest qualified winning hand. Game rules would determine how the pot was distributed. WAC 230-15-040 currently requires that players' win or loss to be determined on the single course of a single card game. The petitioner's proposal creates an exception for this for the carryover pot. It would be up to the licensed house-banked card rooms to ensure that the pot is not carried over more than ten games. The petitioner has indicated that Washington would be the first state where they would introduce a game with this type of carryover pot. Staff recommends filing the petition for further discussion.

**Chair Ellis** asked if there were any questions; there were none. He asked if a representative from ShuffleMaster would like address the Commission on their petition.

**Mr. Ryan Yee**, Associate Product Manager for ShuffleMaster Table Games Division, explained that the wager they actually have is part of a couple games in their library. Basically, it is an added element to the players. It is something that they have not done in any of their previous games in years before, so they really want to have this element. It is part of a new game that they are trying to bring out and they want to be able to have it for future games also. It really gives an element of poker for the players. They basically have it for a game that they are trying to submit at this point right now. Mr. Yee asked if there were any questions.

**Chair Ellis** asked if Mr. Yee could elaborate a little on how this concept would provide an element of poker to the players. **Mr. Yee** replied it is basically where the bets are accumulated, and is over a period of hands where, essentially, the way it was figured for their game, Cincinnati Seven Card Stud Poker, which is one of the games that it is on currently that they were going to submit, it basically makes an element where the players kind of have that feel where they are almost playing against each other, but they are really not. It is kind of like, "oh hey, I've got two pair, and you've got two pair, but I've got a higher two pair." It is a nice element of playing against – it is almost like playing against each other, but not in a sense. It is everybody kind of playing against the dealer and each other in a sense where they are just playing their best hands. **Chair Ellis** asked if, in order to win the pot, the players were required to have a hand that meets a certain minimum level, so they cannot bluff with a hand that is below that level. **Mr. Yee** affirmed that was correct. In one of his games where the players have a decision if they want to fold, or play their hand, that is where it kind of comes into. So in the one game, there is an additional card that is turned over after the players have made their play bets. So basically, they make a decision before hand and they are almost letting it ride at that point.

**Commissioner Amos** asked if there was a minimum bet for each round of hands. **Mr. Yee** affirmed there would probably be a minimum bet determined by the house for each

round, usually it is what the table minimum should be, and essentially any participant that wants to play in it makes that bet.

**Commissioner Gray** asked if the carryover would go up to ten hands. **Mr. Yee** affirmed, explaining they put maximum rounds of rolling over, or carrying over, to ten rounds. Essentially, at that point the money would be split up amongst the players that were actively playing at that point, if no winner had been determined. ShuffleMaster figured that it should hit every two to three rounds, is where the qualifying hand should be. It is a pretty common hand; the lowest qualifier. **Commissioner Gray** asked what would happen if, for example, she was playing four rounds of that, but then opted out for a couple of rounds, and then opted back in. Could she do that? **Mr. Yee** replied that, once she was out, she could not jump back in because it is continuing. **Commissioner Gray** said that at the end of ten rounds, she would not qualify for anything. **Mr. Yee** affirmed that was correct; she would no longer be a participant in it.

**Chair Ellis** recalled that the minimum qualifying hand was two pair. **Mr. Yee** affirmed that was correct.

**Commissioner Reichert** said he noticed that the Snoqualmie Tribe, or the Assistant Manager/Vice-President, wrote a letter supporting this petition. He asked Director Day if there were any Compact related issues that arise from this small change in a rule. **Director Day** replied that what he understood was that it was an issue of support, but if it is available in Washington State, it would be available to the tribes. **Commissioner Reichert** asked if there was some spinoff results that are anticipated. **Deputy Director Trujillo** replied that, if it was authorized for use in this state, then before it would actually be implemented at the tribal operation itself, the Tribal Gaming Agency would first have to review it and then submit it as a change of an existing game or game rules. So it would still go through a couple of different levels of review, but he did not anticipate any spinoff results. **Director Day** added that if it was approved here, it was likely that other tribes would pick it up as well. **Commissioner Reichert** replied that was his point and asked if it might clash with some standing segment or section of a particular Compact. He said he was just anticipating potential. **Director Day** did not believe there was any clash in this process; it is just part of the normal procedure.

**Chair Ellis** asked if Assistant Director Harris had any additional comments. **Assistant Director Harris** replied no, unless the Commissioners have any additional questions. **Chair Ellis** asked if staff's recommendation was for the Commission to file the petition for further discussion. He recalled there was an issue concerning the distinction between a carryover pot and a side pot, or a side bet, which he understood was prohibited under current rules. **Assistant Director Harris** affirmed that the WAC prohibits side bets among players, but the way the petitioner has crafted the rule with the dealer and all the players involved, it would not be designated as a side bet. **Chair Ellis** asked if that was a distinction that staff felt was clear. **Assistant Director Harris** affirmed. He explained the issue would be whether or not the Commission would allow the pot to be carried over, and the winner not to be determined on the single course of a card game and allow it to be carried over for possibly ten games. **Chair Ellis** said he understood that was a key policy

question concerning the petition, and asked what the basis was for the rule against side bets. Was it just a form of unauthorized gambling essentially? **Assistant Director Harris** responded his understanding was that it has been around at least as long as he has been with the Gambling Commission. His recollection was that it was so that players at the table would not do additional bets amongst themselves, as opposed to playing against the house in house-banked card games. The exception would be poker, where the players are competing against each other.

**Commissioner Gray** wondered about the pressure on the players to be part of this bet – if there are six players and only one opts in, or four of the five opt in, something like that, is there pressure on that fifth player to also opt in? **Assistant Director Harris** replied he did not believe so. The player would still participate in the other aspects of the game; just not in the carryover pot. On some of the games there are optional wagers where players can choose to place a wager on one outcome or another. They could still play the basic game and not be forced to play that option of the additional aspect.

**Chair Ellis** asked if the dealer must participate in the carryover pot. **Assistant Director Harris** affirmed.

**AAG Ackerman** commented that, obviously, the prohibition on the side bets predated his coming to the Commission, but it occurred to him that one obvious problem with side bets would be the wagering limit that the Commission enforces when dealing with a house-banked wagering situation. Obviously that would be very difficult to do if there were players making side bets that the licensee may not even know the amount of the bet. He suspected that was probably one of the reasons that the side bet prohibition was put into place. **Chair Ellis** agreed that seemed like a rational prohibition for a number of reasons. He asked if there was anyone from the audience that would like to address this petition; no one has stepped forward.

**Commissioner Gray** made a motion seconded by **Commissioner Amos** that the Commission file Amendatory Section WAC 230-15-040 for further discussion. *Vote taken; the motion passed with five aye votes.*

**7. Petition from the Public: Rockland Ridge Corp. and Galaxy Gaming - Allowing “envy” and “share the wealth” “bonus features” to be connected on multiple tables of different card games in a house-banked card room**

**Amendatory Section: WAC 230-14-095 - Displaying prizes**

**Assistant Director Harris** reported that the Commissioners had denied a similar petition from these same petitioners at the February Commission meeting citing regulatory concerns. The petitioners submitted this new petition addressing two areas they believed led to the denial of the first petition. The new proposal uses staff’s alternative from the February meeting as a starting point. The proposed amendment now includes limiting the shared prizes to fixed payouts versus odds based payouts, and requires electronic features to be used to detect and record a player’s winning bonus wager, provide an alert notification system for winning triggering events, and include a system for displaying all



winning prize hands. Outside of those two additional changes to the current petition, it is pretty much the same as the previous petition. It still allows players in the card room to place envy and share the wealth wagers on different tables to win a prize, even if they are playing a different game. It defines envy and share the wealth as a bonus feature. It allows other game features that do not require a separate wager to be considered a bonus feature. It defines what a separate game is. It clarifies that card games and bonus features must be approved by the Director or the Director's designee. It clarifies that the prize and the bonus feature are based on achieving a pre-determined specific hand. It also adds language to clarify that approved card games must be operated as documented on the agency website. It clarifies that only one player may place a wager on a wager area in mini-baccarat. And it clarifies that licensees may connect progressive jackpots offered on different tables of the same card game.

The impacts are still the same as they were on the previous petition. The equipment the petitioner intends to use to implement these requested changes has not been reviewed by staff and, without knowing how the equipment operates, it is difficult to determine if the rule addressing the equipment requirement will work as intended. Staff is concerned how the electronic system would: identify which player had the winning hand; notify other players offering envy or share the wealth wagers that the jackpot has been won; and verify that the winners throughout the card room had been paid. The petitioners did submit their equipment to the Commission for approval, but have asked staff to hold off on reviewing it until it has been determined if the petition will be filed. The resource impacts are still the same as they were in the previous petition, with the addition that staff may have to review an increased number of requests for equipment approvals to monitor the facilities of the new equipment. Historically, the Commission has limited the number of games played within a hand of cards and has not allowed different card games to be connected. The proposal would allow more bonus features and would allow bonus features to be tied to progressive jackpots. If the Commission wishes to consider changing current agency policy, then file the petition for further discussion. If the Commission files the petition, staff may propose additional changes based on the testing of the equipment.

**Commissioner Rojecki** said that Assistant Director Harris had made a statement that, if the Commission files the petition, then that might help weed out some of the other concerns, or additional new concerns of staff if they were to test the actual machine. He asked if that was actually helpful to understanding it. **Assistant Director Harris** affirmed, explaining the current proposal makes assertions that the equipment can do x, y, and z. Until staff actually looks at the equipment to see how it operates and to determine if it will do x, y, and z, it is hard to make a recommendation that it will actually improve the regulatory concerns. **Commissioner Rojecki** commented it was hypothetical today until staff have tested it. **Assistant Director Harris** agreed.

**Commissioner Gray** asked what was needed to be able to do that. **Assistant Director Harris** replied that, basically, the petitioners have submitted the equipment for staff to review, but they asked staff to hold off on reviewing the equipment until they know for sure that the petition was filed. So, if the petition is not filed, there would be no need for staff to review the equipment.

**Commissioner Rojecki** asked if there was staff time to be able to do that – realizing that there is a backlog. **Assistant Director Harris** explained the Lab was not actually under his control, so he did not know what they were currently doing. **Commissioner Rojecki** said he knew there was a backlog. **Director Day** explained the process was when the equipment comes in, it is placed on a queue, so to speak. The bottom line is that it is a “pay as you go” thing.

**Chair Ellis** assumed staff was in a position, with the way the various considerations have been laid out, to be able to tell at this point whether the equipment works exactly as it is represented to work and how many of staff’s concerns and the policy questions will be resolved favorably. **Assistant Director Harris** replied that, if it would operate as proposed, it would address most of the conditions that were brought up the last time the petition was brought forward. But, after staff actually looks at the equipment and how it operates, there may be additional regulatory concerns that come out of the review that staff had not considered. So it is sort of a Catch 22 – it is going to evolve as it goes. **Chair Ellis** indicated that, obviously, the Commission would be left with some of the policy considerations that were mentioned. They would be linking multiple tables in different card games and increasing the number of bonus features and exceptions allowed in a single card game. They would also be tying progressive jackpots to bonus features, and there would be the question about which payout table would be used for envy and share the wealth bets. It seems there are a number of considerations, or concerns, that have been mentioned that are going to be unaffected by the resolution of how the equipment works. **Assistant Director Harris** affirmed there are several policy considerations tied up into one. As far as the regulatory concern aspects, a lot of that will be addressed by the proposed equipment changes. The two issues for the Commissioners to think about: does the Commission want to make the changes in the area of the policy changes, which are fairly numerous; and then if they do, are the equipment recommendations by the petitioner going to be sufficient to address the regulatory concerns. **Chair Ellis** said he saw what AD Harris was saying. The regulatory concern section focuses specifically on the electronic system.

**Commissioner Reichert** stated it seemed odd that the Commission would get a request that says, “we don’t want you to look at this until you approve it in the queue” – that seems to be counter intuitive. **Chair Ellis** indicated they have to pay for it. **Commissioner Reichert** knew they have to pay for it, but indicated it also implies a momentum kind of thing. If the Commission gets through this step, then the petitioners will move ahead, and then they are going to pay for it. Commissioner Reichert admitted he was confused about the process. It seems that if he were a petitioner, he would want to make sure that staff was fully satisfied before bringing the petition before the Commission. He said that might just be his misunderstanding of the process, and asked if there were any comments on that. It just seems odd that the Commission would have a request that says, “well, if you take the next step then we’ll take the next step.” **Assistant Director Harris** agreed, adding that by putting himself in the petitioner’s shoes, he sort of understood what they were doing because there is really no need for the equipment. If he paid to have it reviewed and the petition was not filed, the equipment is not used in any other capacity. So if it is filed, then

he would say, “yeah, I’ll pay for the review because now the equipment’s necessary in order to move the petition.” **Commissioner Reichert** said he was just thinking that seems to be on the petitioner’s back, no matter what – they are asking for a change in policy. **Assistant Director Harris** replied that was very true. He was sure the petitioner could shed a little more light on his thought process on that.

**Chair Ellis** asked if Mr. Tull would like to speak up first for the petitioner.

**Mr. Robert Tull**, representing the petitioners in this matter, reported that a couple of months ago the Commission had, essentially, a two-to-two vote, which resulted in the proposed rule allowing these activities to be denied. That was the effect, of course, of not having three affirmative votes. Based on the comments made during that process and on some very informal and very brief discussions after the meeting, he discussed with Mr. Saucier the fact that they had to address some technical concerns. The rule they had submitted previously and worked with staff on, tried not to identify the technology itself too closely, but rather to set goals so that anyone could come forward with a piece of equipment and have it be reviewed and approved and made sure it met the rule. The impression they received from the discussion two months ago, and from other conversations, was that there was an appreciation for the technology that was demonstrated and that it did appear to provide safeguards. It did appear to assure that difficulty would not arise in the operation within a particular card room or at a tribal casino, but the technology would make sure that controls were in place. Having made that assessment of the discussion, Mr. Saucier went back to the drawing board and went back to staff again with rules that were more specific on what those targets had to be; things that he knew his equipment would be able to satisfy. That rule was sent down to commission staff and discussions were had. It was then determined that it would be handy to go ahead and commence a review process. Mr. Saucier can talk about the back and forth, but it has all been very, very professional and above reproach in terms of clarity from staff. In the end, it was determined the equipment would be shipped to the commission staff. The money has been delivered, so that the staff time for the lab analysis will take place. The Commissioners should be aware that it is very unusual for the Lab to undertake testing of equipment for which there is no rule because what are they testing against? Mr. Saucier had to just make a business decision as to whether or not to have staff start testing last week and arrive at this meeting without conclusions. Staff indicated it would take a couple of weeks to make sure that the Commission continues to be tentatively interested in allowing this commercial stimulant increase. One of the clear goals of the Gambling Act is to allow commercial activities, particularly in certain categories, including the Tribes, and this is intended to help the market, to help improve revenues, so long as there are no regulatory concerns.

Mr. Tull pointed out their proposed rule now before the Commission that they think tightens down the standards and that is absolutely tied to some equipment. As the Lab tests the equipment over the next month or two, if they come up with things that can be fixed technologically or things that suggest how the rule should be worded, then Mr. Tull said they have a great opportunity to get those things connected. He stated that Mr. Saucier and his company understand that the mere filing of this petition for further

consideration is not an assurance that it will be adopted in the end. They have been through that and understand how the process works. They can talk about other decisions that have to be made, but fundamentally they have a situation where they believe that the rule with these slight revisions, including staff's revisions from February, should go forward. The tests should take place. If the tests show that the equipment cannot meet these standards, there will have to be major changes or withdrawal of the petition. If the equipment can meet the standards, then the Commission will have several opportunities to discuss whether or not there is any aspect of this that causes them discomfort. Mr. Tull said it was his interpretation – not putting words in Mark's mouth – that if the technology does what he believes it does, and what they intend to test to show that it does, then the regulatory concerns of this agency, the professional staff, have been satisfied. That is a crucial step. We think that the business steps –

**Commissioner Reichert** interrupted to ask Assistant Director Harris if he agreed with what Mr. Tull just said – this was a big pivot for him. **Mr. Tull** said that was what he had heard him say. **Chair Ellis** thought Assistant Director Harris had just addressed that a moment ago. **Assistant Director Harris** replied that it would appear that it would address most of the concerns, if not all of them. But again, staff would have to see how the equipment actually functions to address those concerns. **Chair Ellis** asked if he was talking just about the regulatory concerns. **Assistant Director Harris** affirmed it was just the regulatory concerns. **Commissioner Reichert** agreed. **Assistant Director Harris** added that was regarding player notification and player protection. **Commissioner Reichert** responded that part was fine. It is the procedure or the process that Mr. Tull is laying out for conducting this in sequence that Commissioner Reichert was asking about. He asked if that helps the staff, or hinders the staff, or is the staff recommending to use this method, which seems a little out of sequence to him. **Assistant Director Harris** responded that it would help to see how the equipment operates to address the regulatory concerns because at this point it is all hypothetical.

**Mr. Tull** explained that, from a traditional standpoint of at least 15 or 20 years, he thought the Administrative Procedures Act under which the Commission generally acts has encouraged what has sometimes been described as negotiated rule making. He was not quite doing that, but what he is trying to do is make sure that any time a staff has a concern, and any time the Commission has a concern, that he address it and answer it. He does not ask for a leap of faith. In this situation, its initial filing will begin the public process. It will specifically turn loose the machine and the funds that are on deposit with the Commission today to start through the testing process. As issues are checked off, or as they are underlined, Mr. Tull will have a chance to respond to the staff and they will have a chance to come back to the Commission and say it is fine, or come back to the Commission and say this just is not going to be as simple as it was thought. The process of working with staff has been always very open. Mr. Tull had meant to say something nice about Susan Arland. The Commission could not have a better representative in terms of the face of the agency and in terms of interaction on rule making. So congratulations. Ms. Arland was not there when Mr. Tull was a Commissioner, so he could not take any credit for her hiring. He asked if Mr. Saucier would like to come forward and add or subtract from any of the things that Mr. Tull had injected. He does ask the Commission to let them

move forward in this iterative process, with the result that at the end of it they either pass muster on all the technical issues and on policy issues, or they do not. Mr. Tull thought the policy issues could be argued, and he would be happy to address those at some other point, but mostly this is a regulatory issue with a regulatory agency. Mr. Tull believed that helping operators attract more people into their businesses, be it tribal casinos or card rooms, is a good thing.

**Mr. Rob Saucier**, representing Galaxy Gaming, stated the only thing that he really wanted to address had to do with Commissioner Reichert's comment about the order of things. This is quite unusual from the standpoint that equipment would be submitted to the Lab before a rule was submitted that would allow the equipment if it was approved. What happens is that one of the things that the Lab tests when they test equipment is they test the compliance with rules. Without the rule, this equipment could never be approved, because it would not comply to a rule that exists currently. So when he was informed by staff at least a month ago that the staff felt that before the Rules Team could make a recommendation, the equipment would need to be tested. Mr. Saucier thought that was quite unusual because he had never really seen that before. But he said, if that was what will help the Commission, he would go ahead and do that. So he went ahead and submitted the equipment; he submitted the application, gave the deposits, and provided all that. And that is sitting in the Lab; staff is ready to test the equipment. They got back to Mr. Saucier late last week and gave a full estimate of what it was going to cost, and asked earlier this week if he wanted to go forward with this, and he said yes. But since the Commission is going to be deciding on whether or not the rule is even going to be filed – if the rule is not filed, the whole thing is moot; but the equipment is there, and it is ready to be tested.

Mr. Saucier said there would probably be – once he sees what the Lab says about the equipment – a tweak here or there, either with the equipment or in the way the rule is proposed. Because if the Commission thinks of what was done before, the original rule that had been proposed previously was meant to not be specific to a type of equipment. It was meant to be more open and more generic to allow different operators to come in with their suggestions, different manufacturers to say this is how they would like to do that. The Commission was clear and said they would like something more definite; they would like to understand exactly what it is. As those Commissioners who were present will recall, Mr. Saucier demonstrated some equipment that was not a working model, but really a demonstration model. So that same model that was shown in an operational form, exactly the same thing, is what has been submitted to the Lab. They will test that equipment and see if the equipment that was provided does two things: number one, it conforms to the proposed rule; and number two, it addresses the regulatory concerns that have been raised. That is really why the order of things have come about. Mr. Saucier agreed it is different. He has never submitted equipment before unless there was already a proposed rule in place, but in this case, the staff requested that it be done in this manner, so that is why they did it.

**Chair Ellis** asked if Mr. Saucier could elaborate a little on – and this may go back to the brief conversation he had with Mr. Saucier at Great Wolf Lodge after the February meeting

as Chair Ellis was headed out the door – what he indicated, and Assistant Director Harris alluded to the fact, that the revised proposal limits shared prizes to fixed payouts. Chair Ellis thought he understood it quite well if they were talking about a progressive jackpot, or a jackpot of any sort, but as far as payouts on envy or share the wealth wagers, is that also subject to the fact that there would only be fixed payouts and no odds based payouts? **Mr. Saucier** affirmed, explaining the reason that language was left out in the last rule was simply oversight because he had never had anything like that in either of his games, or had seen anything like that anywhere else in the country. It was something that was simply an oversight because he had not imagined that somebody would do something other than fixed payouts. But in order to prevent that from happening in this state, that additional language was added.

**Assistant Director Harris** clarified something that Mr. Saucier asserted – staff has reviewed equipment a couple times that was submitted prior to a rule being in place, so it is not unusual; it has happened.

**Chair Ellis** asked if there was anyone in the audience that would like to address this petition; no one stepped forward.

**Commissioner Gray** made a motion seconded by **Commissioner Amos** that the Commission accept this petition for filing and further discussion.

**Director Day** indicated there were two rules in the proposal and asked for clarification that the motion was for changes to both WAC 230-15-040 and WAC 230-15-685. **Chair Ellis** replied he would assume that it covered the entire petition. **Commissioner Gray** affirmed her motion would be for both of those rules.

**Senator Prentice** apologized for interrupting the vote, but she had a policy question. **Chair Ellis** indicated he was glad she did. **Senator Prentice** asked if this was about tying a progressive jackpot, which is currently allowed if it is at the one table, to another table. **Director Day** explained that the progressive tables are, at this point, allowed to connect a game to more than one table. They have the digital readerboard and there might be two or three tables connected on the progressive. That is already allowed. Part of this rule proposal would put that into WAC rules so it was specifically mentioned. The petition itself addresses what is called envy or share the wealth bets, which are at this point not provided in the rules. So they would be allowed to be connected to it. **Senator Prentice** replied the reason she was asking was whether this was this genuinely an expansion of gambling. **Director Day** said, as Senator Prentice knows, the expansion question is legislative prerogative. **Senator Prentice** affirmed that was exactly why she was asking. **Director Day** explained they are already authorized activities, but this would increase the activities within it, so the card games themselves and the playing of cards are legal. Under the actual definition of gambling, it probably does not fit in those things that are authorized under the legislative mandate. It is a card game, but it would allow more activities in the card game than have been allowed before. **Commissioner Rojecki** added that the other key point is the money is still the same, so it does not expand the amount of money on the table, even though the jackpot may be between two tables. **Director Day** affirmed, adding

that the legal wagers are the same, the number of games are the same, the betting limits are the same, and the game is the same. **Commissioner Rojecki** agreed, noting it is not increasing the amount of money, just the amount of games within a game. **Commissioner Amos** thought these were policy questions.

**AAG Ackerman** said the place to start may be with the question of whether or not it is an expansion of gambling. In a legal sense, it is not. And the reason it is not is because the Legislature has already given the Commission the authority to determine what games – in this case what card games – shall be allowed. The Commission can determine what games are allowed. They also have the authority to determine the wagering limits and, basically, the rules relating to the conduct of the card games. That is something the Commission is already been authorized to do, so there is no expansion of gambling in a legal sense. Now, there is always the question of whether or not the Commission is expanding gambling in a practical sense by making it possible for – in this case it sounds like more players to participate in a particular type of activity, which may increase the number of wagers. Not the wagering limit, but the number of wagers in a particular type of activity. But again, that is a practical expansion, if it is an expansion at all. It is not a legal one, and so there is nothing unauthorized occurring here if the Commission decided to go this route. But it is clearly a policy consideration for the Commission. AAG Ackerman explained that RCW 9.46.010 basically identifies the limited purposes for which the Legislature authorizes gambling in the state of Washington. It is a lengthy section, but does go into that breakdown between gambling that is more a social past time rather than professional gambling. In some cases, the section is very clear; in other cases it is not. Some of the Commissioners were not present for the February meeting when Mr. Saucier and Mr. Tull gave a very lengthy and helpful explanation as to what envy and share the wealth wagers were. AAG Ackerman took Senator Prentice's question to be eliciting information regarding these two games, because he did not think the Commission has heard today a thumbnail summary of what envy and share the wealth wagers are, which may be contributing to some of the uncertainty.

Attorney General Ackerman explained he did not think there was a legal problem with the question about the process that Commission Reichert raised. But, certainly, if given the fact that at least three or maybe four of the Commission considered this question a couple of months ago, it would seem that if they had policy objections to allowing this linking of games across tables, then AAG Ackerman wondered about the utility of saying to Mr. Saucier and Mr. Tull that they should commit money to testing machines to alleviate regulatory concerns if they are never going to reach the Commission's policy concerns. It seems that would just be spending money at that point, and the money's not directed at the real target, which is a policy issue, not whether the machines can be made to operate in a way that raises the comfort level of staff that cheating is not taking place. Those are his general thoughts. AAG Ackerman did not know if he had addressed what was being asked. He thought it would be helpful for those Commissioners that were not present for the prior discussions, if somebody explained what these envy and share the wealth wagers were, and how different tables with players playing different games were going to be connected. That may go both to the regulatory concerns and the policy concerns.

**Chair Ellis** asked if Assistant Director Harris would like to undertake that. **Assistant Director Harris** explained that an envy feature is where a player has a minimum qualifying wager on a wager spot – say the bonus wager in Pai Gow – and another player gets a qualifying hand like four of a kind, the first player would get a payout because they had a wager on their hand that was over a certain dollar amount. A player does not have to place an additional wager to win it. Just the fact that another player has a qualifying hand entitles the other player to an additional payout. That would be an envy feature. A share the wealth feature would be if the player who placed a qualifying wager could get paid out on their own hand in addition to the other players at the table if they received a qualifying winning hand. So an envy feature would be everybody else at the table could get paid out with a qualifying envy wager, and share the wealth would be everybody, including the player with the qualifying hand, could receive the payout.

**Chair Ellis** added the thrust of the petition would be to extend those concepts to other tables linked in the same card room. So, if a player at another table were to get a qualifying hand and another player qualified to participate either through envy or share the wealth, then the other player would get a prize based on that high hand. **Assistant Director Harris** affirmed that was correct, and that it also goes to Senator Prentice's question about the progressives being tied to different games. Normally, they would be tied to the same game, like a progressive blackjack game. If the card room had two of those tables, the money is all going to the same pot. This would allow the card room to put a progressive jackpot feature on an envy or share the wealth wager, which could be linked over two or three different types of games – a Pai Gow game, a blackjack game, a three card poker game. There are a lot of features that this contains.

**Chair Ellis** said he had another question regarding one of those features. He and probably several others had some concerns about the complexity of linking tables in the room, potentially with different games as well as different tables, for the purposes of the envy and share the wealth bets and, for that matter, the progressive jackpots. That seems like a much clearer concept in isolation. But there were regulatory concerns, which identify what staff is looking for in the electronic system, indicates that, apparently, the system is set to identify which payout table would be used to pay out the envy prize on different games. He asked how the electronic system does that. **Assistant Director Harris** replied his understanding, not having seen the equipment, would be through the signage attached to the equipment. Usually they have an electronic sign with some type of scroll that would indicate what the players are playing for, so it would have indications on the payout tables for the various different games and options. AD Harris would guess that, not having seen the equipment, each table that offered it would have the pay table listed on the sign saying if players had an envy or share the wealth feature, that qualifying bet out there, they would be entitled to this payout. And if it is a progressive jackpot, that would be what percentage or what portion of that prize they would be entitled to win. **Chair Ellis** asked if AD Harris thought that, based on his expectation of how that system would work, there would be a problem of players getting confused about what they were playing for if they are playing at different tables that are linked, with each table having its own payout sign. **Assistant Director Harris** replied he thought there would be a learning curve; the players that have played quite awhile would understand it, but newer players would probably have trouble



understanding it. The dealer would probably have to explain it to them. **Chair Ellis** thought that sounded similar to something Mr. Saul had said at the first hearing.

**Senator Prentice** indicated she does not usually delve into this type because she does not have a vote, but two separate people had approached her because they had seen this on television. They related back to her what had happened, and they did not like the explanation of the games as the public heard it. Now, it may not seem like a lot, but no one ever comments to Senator Prentice about what goes on at the games. But since there were two separate comments, she then started paying attention.

**Commissioner Reichert** asked, if he was at game A and was playing along and he had an option to place a share the wealth bet at the same time, would he be putting a little more into the pot to do that? **Assistant Director Harris** replied he would not have to do that. **Commissioner Reichert** asked AD Harris to explain more about that. **Assistant Director Harris** responded that, basically, most games have a standard wager. If players place that wager out there – and usually they will put a minimum of \$5 – so if they put a \$5 wager out there, they would qualify for this additional payout. If the players placed a dollar wager out there, they would still be playing the game, but they just would not qualify for that additional payout. So, it is not an additional wager, but is sort of encouraging players to place a little bit more out there on their initial wagers. **Commissioner Reichert** asked if they would be playing more games at once. **Assistant Director Harris** affirmed that was correct. **Director Day** added that one thing to be clear about in this process is that, as players are wagering, there is the standard play wager “spot” on the table where players put their play wager. Then if there are other of these prizes or these games associated with it, (bonus play, or progressive, or envy), the rules say the players do not have to place a separate wager for that. But in each of those others (the bonus and the progressive) would be considered a separate “game” in WAC rules. That is where the maximum comes into effect. There can be a total of four, counting the one the players are playing. One of those has to be only a \$5 bet, so this rule does not change that concept. **Commissioner Reichert** replied he understood that, but just wanted to get it stated on the record that this is what the Commission is doing.

**Commissioner Rojecki** asked if there was some impetus to get into rule what is currently not in rule. **Director Day** affirmed that was correct. That was what brought about his question that started this whole thing, which was to make sure that I685 was in the motion because last time there was a filing problem with it.

**Commissioner Rojecki** explained that he was against this proposal two months ago because of a lot of regulatory concerns, but thought it was fair at this point in time. He understood the expansion of gambling and some of the other issues, and would probably know a lot more about considering testing against proposed rule.

**Chair Ellis** explained the motion before the Commission was for the Commission to accept for filing and further discussion the petition from the public by Rockland Ridge Corporation and Galaxy Gaming, which would amend WACs 230-15-040 and 230-15-685. He asked if that was a fair statement of the motion. **Commissioner Gray** affirmed.

**Commissioner Amos** affirmed. *Vote was taken; the motion passed with four aye votes and one nay vote from Chair Ellis.* **Chair Ellis** explained he has not reached the point where he is really comfortable that even if the regulatory issues are resolved satisfactorily that the policy questions would permit him to vote in favor of the proposal.

**8. Nomination and Election of Officers – Effective July 1, 2012 to June 30, 2013**

**Chair Ellis** asked if there was a motion to nominate a Commissioner for the vice-chair position.

**Commissioner Amos** nominated Commissioner Keven Rojecki as Commission Vice Chair for the term expiring on June 30, 2013. **Commissioner Gray** seconded the nomination. **Chair Ellis** asked if there were any competing motions to nominate any other candidate to be vice chair; there were none. *Vote was taken; the motion passed with five aye votes.*

**Chair Ellis** asked if there was a motion to nominate a Commissioner for the chair position.

**Commissioner Amos** nominated Commissioner John Ellis as Commission Chair for another term expiring on June 30, 2013. **Commissioner Rojecki** seconded the nomination. **Chair Ellis** asked if there were any competing motions to nominate any other candidate to be vice chair; there were none. *Vote was taken; the motion passed with five aye votes.*

**9. Other Business/General Discussion/Comments from the Public**

**Chair Ellis** opened the meeting to other business, general discussion, and comments from the public; there was none. He called for a break at 2:35 p.m. explaining at the end of the break the Commission would go immediately into an executive session.

**10. Executive Session to Discuss Pending Investigations, Tribal Negotiations and Litigation**

**Chair Ellis** called for an Executive Session at 2:50 p.m. to discuss pending investigations, tribal negotiations, and litigation. He announced that at the end of the executive session, the public meeting would be resumed solely for the purpose of adjourning. The next meeting will be on May 10 in Spokane.

**Adjourn**

**Chair Ellis** called the meeting back to order at 4:25 p.m. and immediately adjourned.

Minutes prepared by:

Gail Grate, Executive Assistant